

**REPORT - PLANNING COMMISSION MEETING
October 28, 2004**

Project Name and Number: Irvington Village (PLN2004-00308)

Applicant: Regis Homes of Northern California

Proposal: To consider a Planned District Major Amendment to reallocate density to 18 du/ac for a 6.56 acre site and to propose a Private Vehicle Access Way (PVAW) less than 32 feet in width, a Preliminary Grading Plan, Private Street, and Site Plan and Architectural Approval for 115 townhouses and condominium units.

Recommended Action: Approve based on findings and subject to conditions

Location: 40800 and portion of 40900 Grimmer Boulevard in the Irvington Planning Area

Assessor Parcel Number(s): 525-1054-001-04, 525-1054-001-07, 525-1054-001-06 (portion)

Area: 6.56 acres

Owner: Samuel N. Harrosh

Agent of Applicant: Jeff Smith

Consultant(s): HMH Engineers (Engineers)
KTTY Group, Inc. (Architect)
Guzzardo Partnership, Inc. (Landscape Architect)
Fehr & Peers (Transportation Consultants)

Environmental Review: A Mitigated Negative Declaration was previously prepared and adopted for the General Plan Amendment and Rezoning of the site, which includes the anticipated development of this site.

Existing General Plan: Residential High Density (23-27 dwelling units per acre); Community Commercial

Existing Zoning: P-2004-92(I) Planned District (Irvington Overlay)

Existing Land Use: Existing Patio World retail establishment and a portion of the Tri-City Sporting Goods site.

Public Hearing Notice: A total of 353 notices were mailed to owners and occupants of property within 1000 feet of the site on the following streets: Grimmer Boulevard, Davis Street, Bay Street, Chapel Way, Eugene Street, and Ladner Street. The notices to owners and occupants were mailed on October 15, 2004. A Public Hearing Notice was delivered to The Argus on October 11, 2004 to be published by October 14, 2004.

Background and Previous Actions: This site was the subject of a General Plan redesignation to include Residential High density development at 23-27 dwelling units per acre (du/ac) and was rezoned to Planned District (P-2004-92(I)) Irvington Overlay to include housing as a possible use as part of the Housing Element implementation effort. The Planning Commission recommended approval of this action to the City Council on November 20, 2003 and the City Council approved the redesignation and rezoning on December 9, 2003.

The property owners of Tri-City and Patio World approached the City staff regarding potential residential development at the Patio World site. As part of staff's implementation of the Housing Element, staff determined that redesignating the properties would implement those goals, specifically, Program 21 (Commercial and Industrial Redesignation), Program 22 (Redesignation and Rezoning of Older Shopping Center Sites) and Program 23 (Rezoning Sites to Mixed-Use to

Accommodate Affordable Housing Developments). Program 21, Commercial and Industrial Redesignation, identified a portion of the Tri-City site as a housing development opportunity site. Program 23, Rezoning Sites to Mixed-Use to Accommodate Affordable Housing Developments, identified the Patio World site as a mixed-use development opportunity site. The Housing Element did not initially identify the entire Tri-City Sports site as an opportunity site, however, City staff and the property owners subsequently agreed to include the redesignation of the Tri-City Sports site for potential future residential development, with the redesignation additive in nature such that commercial uses may continue as legally conforming uses. The redesignation and rezoning was considered consistent with Programs 21, 22 and 23. The redesignation and rezoning of the Tri-City Sports site occurred on December 9, 2003, as explained above.

Project Description: The proposed project is to consider a Planned District Major Amendment to reallocate density to 18 du/ac for a 6.56 acre site and to propose a Private Vehicle Access Way (PVAW) less than 32 feet in width, a Preliminary Grading Plan, Private Street, and Site Plan and Architectural Approval for 115 townhouses and condominium units.

Regis Homes is proposing the development of 115 for-sale residential units. There will be 53 single-family attached townhomes and 62 condominium units. The condominiums will include 24 two-bedroom and 38 three-bedroom units. The 53 townhomes will all be three-bedroom units. A private vehicle access way (PVAW) network within the development will serve these units. There are a total of 230 covered and 50 uncovered parking spaces. Common open spaces surround each of the unit clusters, and an open space paseo runs north/south between the townhome unit clusters.

There is one main access into the development, along Grimmer Boulevard. In addition, there are two emergency vehicle access (EVA) points along Grimmer, one which extends along the southernmost private road. This is shown as Private Street "E" in the Site Plan (included in Exhibit B).

PROJECT ANALYSIS:

General Plan Conformance: The existing General Plan land use designation for the project site is a combination of Community Commercial and Residential High Density of 23-27 dwellings per acre. This General Plan designation allows the property owner to continue the commercial use of the site, redevelop the site with other commercial uses, mixed use, or redevelop the site for housing at 23-27 dwelling units per acre.

The applicant is proposing a density of 18 dwelling units per acre for 6.56 acres of the 8.6 acre site. The application, for the purposes of meeting the required mid-point of the density range, is being reviewed in conjunction with the application for Irvington Family Apartments. Irvington Family Apartments, a 100 unit apartment building proposed on the remaining 2.05 acres of the site, has a proposed density of 49 dwelling units per acre. The two projects, with their combined density, will have 25 dwelling units per acre, thus achieving the required mid-point of the 23-27 dwellings per acre range for the entire 8.6 acre site. (Please refer to the *Planned District Major Amendment for Density Reallocation* section of this report for more details on the proposed density reallocation.)

The following General Plan Goals, Objectives, Policies and Implementation programs are applicable to the proposed project:

Fundamental Goal F8: *A Diversity of residential, recreational, cultural, employment and shopping opportunities.*

Policy LU 1.9: *To achieve a variety of housing types, the City has designated locations where moderate and higher density development is appropriate. Criteria for the location of higher density housing include access to transit, proximity to commercial areas, proximity to collector or arterial street, and a transition use where maximum flexibility in site design is required. For those areas where higher densities are indicated on the General Plan Diagram, construction of housing at significantly lower densities than planned would not meet the City's goals. The City therefore established a minimum required density of development for all medium and high density residential uses as follows:*

- *When the residential range is between 6.5 and 70 units per acre (ranges 8 – 15), and a development application has not been deemed completed for processing under the*

provisions of the Permit Streamlining Act by July 1, 2003, the minimum density of the project must be at the midpoint of the density range.

- *When calculation of the midpoint density results in a fraction of a unit equating to 0.50 or more, the minimum density shall be rounded up to the next whole number.*

Policy LU 1.12: *To the maximum extent feasible, play areas and open spaces shall be located to avoid conflict between residents attempting to reach these facilities and vehicular traffic.*

Policy LU 1.24: *Multi-family housing (with the exception of housing designed exclusively for seniors) shall be designed to accommodate the needs of families and children.*

Implementation 1: *Encourage multi-family housing developments to include a percentage of units with three or more bedrooms consistent with the Housing Element Implementation Program 27 (Family and Larger Sized Units).*

Implementation 2: *Incorporate appropriate amenities/play areas for children in multi-family housing developments.*

The proposed project is consistent with the existing General Plan land use designation for the project site because the proposed project, with the proposed density reallocation, will be developed at the required mid-point density range for the site. The play area and common open space areas have been designed in centralized areas, away from vehicular traffic and accessible by groups of units without traversing vehicular traffic. The 115 units propose to include 91 three-bedroom units, or 79 percent of the project, to address the needs of families with larger sized units. The development includes both active and passive play areas for children in the centralized areas to address the needs of families.

The proposal is also consistent with the Housing Element adopted in 2003. The Patio World site and the Tri-City Sports sites were, to a certain extent, identified in the Housing Element as opportunity sites for housing. This application for 115 residential units implements the goal of providing housing at various densities.

Redevelopment Plan Conformance: The project site is located in the Irvington Redevelopment Project Area and meets the following goals of the Redevelopment Agency: (1) creation of residential opportunities for various segments of the community; and (2) elimination of adverse physical conditions within the Project Area. The proposed development is consistent with the Redevelopment Plan because it will create 115 new market-rate homes. In addition, under the City's Inclusionary Housing Ordinance, the project proposes to meet its inclusionary housing obligation by providing 17 affordable housing units off-site. The proposed development also meets the Agency goal of eliminating adverse physical conditions in the Project Area by transforming an aging and underutilized commercial property into much needed residential units.

Planned District Major Amendment for Density Reallocation: The existing site was the subject of a General Plan redesignation to include a residential density designation of 23-27 dwellings per acre. The applicant is proposing to reallocate the density so that the 6.56 acres to be developed for 115 townhouses and condominium units would have a density of 18 dwellings per acre. The remainder of the 2.05 acre site would have a density of 49 dwellings per acre. An application for the remainder of the site for development of a 100 unit apartment building at 49 units per acre is on the agenda for the Planning Commission meeting of October 28. The two separate applications, with a total of 215 units on 8.6 acres, would provide an overall density at the site of 25 dwellings per acre. This satisfies the requirement to meet the mid-point of the density range of 23-27 dwellings per acre. The approval of this application would effectuate the reallocation of density to this site.

Zoning Regulations: The existing zoning of the proposed project is P-2004-92(I) Planned District (Irvington Overlay). The R-3 zoning district is considered in evaluating the proposed project for general conformity with City standards, and the Planned District allows for variations from those standards. The following discussion describes how the project conforms, or varies from, the R-3 district standards.

The applicant meets the height requirement with a proposed building height of 33 feet for the condominiums and a maximum of approximately 33.25 feet for the townhomes. The R-3 district allows a maximum of 52 feet.

Strict adherence to R-3 standards for front, side and rear setbacks is often not applicable for condominium and townhome developments. The general standard is 20 feet for the front and street side setbacks. For the Grimmer frontage, the building is set back 20 feet with balconies projecting 3 feet into the front setback. Such balcony projections are allowed to project by 3 feet in a setback area in the Zoning Code if the balcony does not comprise more than one-third of the length of the building wall. In this case, the balcony feature, in the aggregate, represents approximately 75 percent of the length of the building. The balconies serve to break up the façade of the building wall, which is approximately 122 feet in length. This is a desirable condition and deviation from the R-3 standard is warranted.

In terms of setbacks on the Private Vehicle Access Ways (PVAW's), the condominiums are generally built right up to the PVAWs on the garage side of the condominium units to maximize space on this in-fill development site. Otherwise, condominium building setbacks from the PVAW's on the front and side of the buildings vary throughout the site. The condominiums do not meet the front, street side, side and rear setbacks recommended in the R-3 standards. The Planned District and the R-3 standards themselves allow for variations to these standards to be addressed through the site plan and architectural approval process. The proposed plan, on this in-fill site, provides for a unique product type which introduces new multi-family units to a previously commercially zoned site. The deviations can be supported because the applicant has provided special pavement features throughout the development, proposed landscape plans that maximize the areas available for landscaping, provided a pedestrian plan throughout the development which allows pedestrians to traverse the development and provided a diversity of architectural features, with blending and contrasting elements, for the condominium and townhouse developments.

In terms of required open space, the R-3 district requires a minimum of 3,350 square feet of common open space for the 62 condominium units. The open space may not be calculated if it is located within any required setback and must have a minimum dimension of 15 feet. Using those standards, the proposal well exceeds the requirements with nearly 10,000 square feet of open space between the condominium buildings 55 and 56, 58 and 59 and between 60 and 61. The townhomes, with 53 units, are required to provide common open space of 2,900 square feet. The proposal well exceeds the requirements with over 6,000 square feet of open space located between the townhomes, as indicated on the Site Area Summary Site Plan, SP.1.

The R-3 requirement for private open space is for each unit above ground level to include a balcony of 60 square feet with a minimum dimension of 6 feet and at-grade units are required to include a patio of 100 square feet with a minimum dimension of 10 feet. The proposal meets these private open space requirements.

The R-3 standards require a maximum lot coverage of 50 percent. In terms of the total site area devoted to the condo development, buildings represent 35 percent of the area of 3.53 acres. The area devoted to townhome development represents 41 percent of the total area of 2.77 acres. The lot coverage therefore meets this requirement of the R-3 district.

Another requirement of the R-3 district is the provision of 100 cubic feet (cf) of storage space, located within the garage, patio or deck area. The development meets this requirement.

Staff believes the site plan, architecture and landscape plans have adequately addressed staff comments and concerns; that effective conditions of approval have been incorporated to resolve any remaining issues, and the project, as conditioned, merits all proposed deviations from the Fremont Municipal Code

Inclusionary Zoning: Regis Homes intends to meet the requirements of the Inclusionary Housing Ordinance through the funding of construction of seventeen (17) off-site multifamily rental units. Under Fremont Code Section 8-22177 *Alternatives to On-Site Construction*, (b) *Off-site Construction*, a developer may elect, in lieu of building affordable units within a residential project, to "construct, or make possible construction by another developer of, units that are physically contiguous to the market-rate units if the city determines this will provide a greater public benefit, and the affordable housing units is equal or greater in number to the number of affordable units required by Section 8-22174." Because the 17 off-site rental units that Regis Homes proposed to fund for construction by another developer are for very-low and low-

income families, this provides a greater level of affordability than on-site for-sale units for moderate income families. The Office of Housing and Redevelopment is satisfied that this off-site construction provides a greater public benefit. Nevertheless, the agreement with Regis Homes regarding these inclusionary units provides that if the off-site units are not adequately funded for development within a set time frame, Regis Homes shall make 17 of its townhomes and/or condominiums available as below-market-rate inclusionary units.

Parking: The project does not technically meet the required distribution of parking. The City of Fremont parking standards require 1 covered parking space for each two or more bedroom unit for resident parking, plus 0.5 uncovered spaces per unit for residents, plus 0.5 uncovered spaces per unit designated for guest parking only. This amounts to a total requirement for this proposal of 230 parking spaces, with 173 devoted to resident parking and 57 parking spaces devoted to guest parking.

The applicant proposes a total of 280 parking spaces with 230 covered parking spaces and 50 uncovered parking spaces. Although the applicant proposed 50 spaces more than required, the parking spaces, as proposed, do not technically meet the code requirements and further clarification is needed. Each of the 53 townhomes will provide 2 side-by-side parking spaces. These units are only required to have one covered space, with 0.5 spaces for resident parking and 0.5 spaces for guest parking. The condominiums will provide 13 side-by-side parking spaces and 49 tandem spaces. The condominiums are required to provide 1 covered parking space, with 0.5 spaces for resident parking and 0.5 spaces for guest parking. The applicant proposes 50 guest parking spaces distributed through the site, where 57 guest parking spaces would typically be required.

The applicant has submitted a document, including a parking survey, to support this deviation from the strict parking standard (please see informational enclosures). The document provides support for the reduced guest parking, and, in part, states the following: "We would request that the City also consider the site's proximity to transit and local services. Existing transit and bus services on Grimmer Boulevard and Fremont Boulevard offer many options for residents and guests to use public transportation. The site is extremely close to local retail and other business. This site is within $\frac{3}{4}$ mile of the Five Corners/Bay Street corridor, including substantial retail and a major supermarket (Safeway at 3902 Washington Avenue)."

Staff supports the applicant's request for this deviation from the required parking standard. While facts to support one finding are required, for such a deviation, the proposed project allows for three findings to be made to support the deviation (Section 8-22003(a)(2)(d) (i)-(iv)). Finding (i) reads as follows: "Due to the use's proximity to alternative transportation infrastructure and service, including but not limited to BART, Amtrak, and other passenger rail services, bus service, or similar, the use is likely to require a lower level of parking than is required by similar projects not proximate to alternative transportation because residents will have viable transportation alternatives available." Finding (i) can be supported as the site is within proximity to local bus service on both Grimmer Boulevard and Fremont Boulevard.

There are also facts to support Finding (ii). Finding (ii) reads as follows: "Due to the use's proximity to amenities, and/or due to the desire to create a more pedestrian oriented environment in and around the project site, a reduction in required parking will further the goal of enhancing and strengthening the neighborhood, and, furthermore, that residents will have access to amenities such as shopping, entertainment, and employment without necessitating the use of automobiles." Finding (ii) can be supported because the project site is within $\frac{3}{4}$ mile of the Five Corners/Bay Street corridor including substantial retail opportunities in the vicinity including a major supermarket (Safeway). The reduction of guest parking spaces (from 57 to 50) allows the site plan to maximize landscaping in areas where parking would otherwise occur. This landscaping supports the remaining pedestrian orientation of the site. In addition, each of the 66 units offering two side-by-side parking spaces could utilize one of the parking spaces for guest parking.

Finally, there are facts to support Finding (iv). Finding (iv) reads as follows: "Due to availability of on-street parking, the guest parking requirement for the project will be lower than a development where adequate on-street parking is not provided. This finding shall only be used to lower the guest parking requirement, and not the resident parking requirement." Finding (iv) can be supported because Irvington Avenue provides on-street parking opportunities for the neighborhood.

Related Parking Issues: A portion of the existing Tri-City Sporting Goods site will be purchased by the applicant, Regis Homes. This portion of the site currently contains parking spaces that will no longer be able to be utilized by the remainder of the Tri-City Sporting Goods site. The Tri-City Sporting Goods site contains a 150,000 square foot building with 255 parking spaces. The 255 parking spaces is sufficient for the existing use, which is calculated at 75,000 square feet at the appliance/furniture rate of 5 spaces plus 1 space for each 800 square feet of area (93.75 spaces), 25,000 square feet at the general retail rate of 1 space for each 300 square feet of area (83.33 spaces), and 50,000 square feet at the warehouse rate of 1 space for each 800 square feet of area (62.5 spaces). The total parking requirement for the existing Tri-City Sporting Goods use is 245 spaces. This is in excess of the 255 parking spaces that the remainder of the Tri-City Sporting Goods site will contain. However, the Irvington Village application will include an emergency vehicle access easement (EVAE) on the east side of the Tri-City Sporting Goods site. This will eliminate approximately 27 parking spaces on the site. This would bring the total number of available parking spaces to 228 resulting in a deficit of 17 spaces from the code requirements.

This report includes a condition which will require any re-use of the Tri-City Sporting Goods site to undergo an evaluation for parking conformity. Please see condition B-8. Any proposed re-use of the site which does not meet the parking requirement of the proposed use must bring the parking into conformity, including all City of Fremont parking standards for size, back-up space, landscaping, etc. Several informal field visits to the indicate that there is sufficient on-site parking for this existing use. And, because the existing use does not use the east side of the building for parking, and because there exists sufficient room on the east side of the building to provide parking if a re-use of the site requires it, there is no requirement at this time to provide the 17 parking spaces. In addition, the on-street parking spaces along Irvington Avenue provide additional parking opportunities.

Waste Management: This project is subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939), the City's Source Reduction and Recycling Element (1992), the Integrated Waste Management Ordinance (1995), and the Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. The proposed plans, as conditioned, will meet these requirements.

DESIGN ANALYSIS:

Architecture and Site Planning: The architectural style of the proposed condominiums and townhomes cannot be described by one particular style. The architecture borrows elements from a number of building styles in the project vicinity without directly copying any of them. It has contemporary lines without being sleek or sterile. The buildings make use of traditional elements, details, and materials including pitched roofs, front porches, horizontal siding, bay windows, and entry stoop. The buildings are finished on all four sides with decorative treatments that break up the massing of the buildings. The condominiums utilize board and batten and hardi-board horizontal siding in both vertical and horizontal form. This complements the board and batten and hardi-board horizontal siding utilized in the townhome units, also used in both vertical and horizontal forms. These complementary architectural styles and use of material, allow the condominium and townhome developments to be both complementary to each other and distinct from each other. Further explanation of the architecture can be found in the applicant's justification statement (please see informational enclosures).

City Landscape Architect Review of Proposed Tree Removal and Preservation: The portion of the site designated for new development contains 30 mature trees as listed in the Tree Inventory Report Survey prepared by Hortscience July 2004. All of these trees listed are designated for removal. The trees are in poor to fair condition and have been severely pruned to such an extent that they are damaged permanently. Therefore mitigation is not required. This is consistent with the provisions of the Tree Preservation Ordinance.

View Impacts: The proposed condominium and townhome development, at 33 feet, is less than the R-3 allowed height of 52 feet. The site is relatively flat and any view impacts are expected to be minimal. The wide variety of building designs in the townhome and condominiums, as noted above in the Architecture and Site Planning section, provide both vertical and horizontal articulation, with different materials, design and colors also used to break up the façade of the structures.

ENGINEERING ANALYSIS:

Circulation/Access Analysis: Pedestrian and vehicular access to the project site is from Grimmer Boulevard, an existing thoroughfare with two vehicle lanes and a bicycle lane in each direction. On-street parking is prohibited on Grimmer Boulevard due to the bike lanes. Vehicles will access the site via the existing signalized intersection of Grimmer Boulevard and Davis Street. The existing Tri-City/Patio World driveway will be reconstructed to accommodate the design of the project.

On-site vehicle circulation is provided by a private vehicle access way (PVAW), a type of private street used for condominium and townhouse projects. Both loop streets and dead-end streets are proposed. Dead-end streets longer than one hundred fifty feet in length incorporate vehicle turn around facilities. In the northwest corner of the site a turf-cell pavement area is proposed for emergency vehicle access. Additionally, in the southern corner, a "hammerhead" turn around is provided along with a gated emergency vehicle access through the rear of the Tri-City Sporting Goods site.

Article 21.3 of the Zoning Ordinance, Special Provisions Applying to Miscellaneous Uses, requires all condominium projects conform to the provisions of Article 20 (parking code) and the development policy for private vehicle access ways (FMC 8-22135(3)(a)). The development policy for PVAWs adopted by City Council, establishes guidelines for developments which use PVAWs. Due to the design of the project and size/shape of the project site, the following PVAW principals and standards are not being met with this project:

- PVAW Policy #6: All private vehicle access ways are to be a minimum of twenty-four feet wide (clear width) in those portions where no parking is allowed directly off the access way. An additional four-foot width is required on the side of the access way wherein right angle enclosed parking is provided. An additional two-foot width is required on the side of the access way wherein right angle carport or uncovered parking is provided.

Analysis: On PVAWs with garages on both sides, the policy requires thirty-two feet separation from face of garage to face of garage (twenty-four feet clear plus four feet on each side with a garage). The applicant is proposing three feet on each side of the twenty-four foot clear width, which results in only thirty feet between garage doors. The applicant and project civil engineer have sited several examples of similar projects they have designed in other jurisdictions which have been approved with PVAWs narrower than the thirty-two feet required in Fremont's policy.

The applicant is also proposing to provide twenty-four feet of pavement width adjacent to right-angle uncovered parking, where the PVAW policy requires twenty-six feet (twenty-four feet plus two feet on the side with parking). Although the PVAW width is narrow at the right angle parking stalls, the design does provide vehicular backup space (twenty-four feet) that meets the minimum requirement of Article 20 of the Zoning Ordinance.

In some areas the building designs include architectural projections (eaves) that encroach into the required twenty-four foot clear width. On double-loaded PVAWs, the applicant has indicated that the projections are minor and in no case is less than twenty-two feet clear provided between the eaves of buildings on either side of the PVAW. The Fremont Fire Department has indicated that the proposed twenty-two foot clearance between building eaves is acceptable as a minimum.

The applicant is requesting deviation from PVAW Policy #6 as part of the Planned District application. Staff has reviewed the applicant's proposal and supports the proposed deviations, as set forth in conditions of approval No. E-3 and E-4.

- PVAW Policy #8: Minimum edge of pavement radius is to be twenty feet, except for "turn around" facilities.

Analysis: The site plan has been designed with fifteen-foot curb radii at changes in direction on the PVAW. The project civil engineer has provided turning templates for a garbage truck and a fire truck which demonstrate that the provided curb radii are adequate. Deviation from the strict interpretation of this PVAW policy is proposed as part of the Planned District application. Staff has reviewed and supports the applicant's proposal.

- PVAW Policy #15: A walkway connection is to be provided from the private vehicle access ways to the main pedestrian pathway system. A 3.5 foot sidewalk shall be provided on both sides of the private vehicle access way.

Analysis: The overall project concept and the design of the single-family units restrict the amount of available area for pedestrian facilities. The condominiums and townhouses are designed to have garage entrances on the PVAW side of the building and pedestrian entrances on the opposite side of the building, in the landscaped paseo areas. Several recent townhouse and condominium projects have been approved with similar building designs. Staff supports the applicant's proposal.

Street Improvements: Grimmer Boulevard abuts the northwestern boundary of the project site. Grimmer Boulevard was previously improved as a commercial street. The project is redeveloping the site for a residential use and part of the redevelopment includes removing the existing commercial sidewalk and street trees and replacing it with new sidewalk, street trees and a landscape strip. The project is also altering the existing driveway at the Grimmer Boulevard and Davis Street intersection. The following outlines the street improvement and right-of-way dedication requirements for the project.

- Grimmer Boulevard is an arterial with two vehicle lanes and one bicycle lane in each direction. The developer shall replace the existing sidewalk and street trees with new sidewalk, street trees, and a landscape strip, in accordance with City standard details for residential street frontage. Street improvements shall include, but are not limited to, installation of sidewalk, landscaping, street trees, irrigation, and modification or relocation of any existing utilities that conflict with the project design. The new driveway at Grimmer and Davis shall be a modified City standard type-"E" driveway, that provides an ADA accessible route across the driveway. A six-foot wide public service easement shall be dedicated along the Grimmer Boulevard frontage of the project.
- On-Site Private Vehicle Access Ways: The on-site driveways shall be dedicated private vehicle access ways (PVAWs). The developer is responsible for complete street improvements within the PVAWs, including but not limited to, pavement, curb, gutter, sidewalk, streetlights, and utilities. Parking shall be prohibited within the PVAWs, except for areas specifically designated for guest or resident parking.

Grading/Topography: The project site is currently developed as Tri-City/Patio World retail building and associated parking lot. The existing building, parking lot, and related utilities will be demolished to accommodate the residential subdivision. The subdivision has been designed to keep the building pads close to the existing finished grades on-site. The project civil engineer estimated grading to include 2,500 cubic yards of cut and 3,500 cubic yards of fill. A permit for grading in excess of 1,000 cubic yards requires Planning Commission review. A preliminary grading plan is included in the plan set. Findings and conditions of approval for the preliminary grading plan are included in Exhibit E.

Drainage: Development of the project site, and surrounding developments, included installation of a storm drain system throughout the site. An existing private storm drain crosses the site within an easement. The existing storm drain runs alongside and under the proposed condominium buildings. The developer must relocate the existing storm drain and provide a new easement prior to development of the project.

The proposed on-site storm drain system consists of a series of valley gutters, curb gutters, catch basins, and underground drain pipes. Where practical, the project design directs runoff from roofs and paved areas into permeable landscaped areas to help minimize urban runoff pollution. The design and density of the project site is such that other storm water treatment technologies may be required. The storm drain system, including any integrated storm water treatment devices, will be subject to review and approval of the City Engineer and Alameda County Flood Control and Water Conservation District.

Urban Runoff Clean Water Program: The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board. Prior to approval of the final map, the developer must demonstrate compliance with the NPDES permit requirements. Installation of an in-ground storm water treatment device may be required in order to fully comply.

Geologic Hazards: A portion of the project site has been identified as an area of potential liquefaction on the official Seismic Hazard Zones, Niles Quadrangle map, released by the State Geologist on October 19, 2004. In accordance with

the Seismic Hazard Mapping Act, the City requires that a geotechnical report be prepared defining and delineating any seismic hazard. The applicant must provide this report for City review with the tentative map application.

ENVIRONMENTAL ANALYSIS: An Initial Study and Negative Declaration were prepared for the General Plan Amendment and Rezoning and adopted by the City Council in December of 2003. There are no new impacts that were not analyzed in this environmental document. A finding is proposed that this project does not represent any new impacts not addressed in the Initial Study and Negative Declaration adopted in December of 2003.

The mitigation measures identified in the Initial Study and Negative Declaration have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure. In brief, the mitigation measures relate to dust suppression measures during construction and other potential air quality impacts, requirements should human remains or archeological resources be found, compliance with required Phase I and Phase II analyses, and required noise studies for compliance with City noise standards.

Response from Agencies and Organizations:

This project was submitted to the Alameda County Congestion Management Agency (ACCMA) for review to determine if implementation of the proposal would create an impact on the regional transportation network. No agencies have responded with any substantive comments on the proposed in-fill development project.

The applicant held two community meetings in 2004 to present their plans to the community and to elicit input from the neighborhood. The applicant also organized two tours of other sites that Regis had developed for the interested public, Planning Commission and City Council.

APPLICABLE FEES:

Development Impact Fees: This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. Residential projects/units will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

ENCLOSURES: Exhibit "A" (Zoning)
Exhibit "B" (Site Plan, Preliminary Grading Plan, Elevations, Floor Plans, Landscape Plan)
Informational
Applicant Justification Statement
Parking Survey
Initial Study, Negative Declaration and Mitigation Monitoring Program

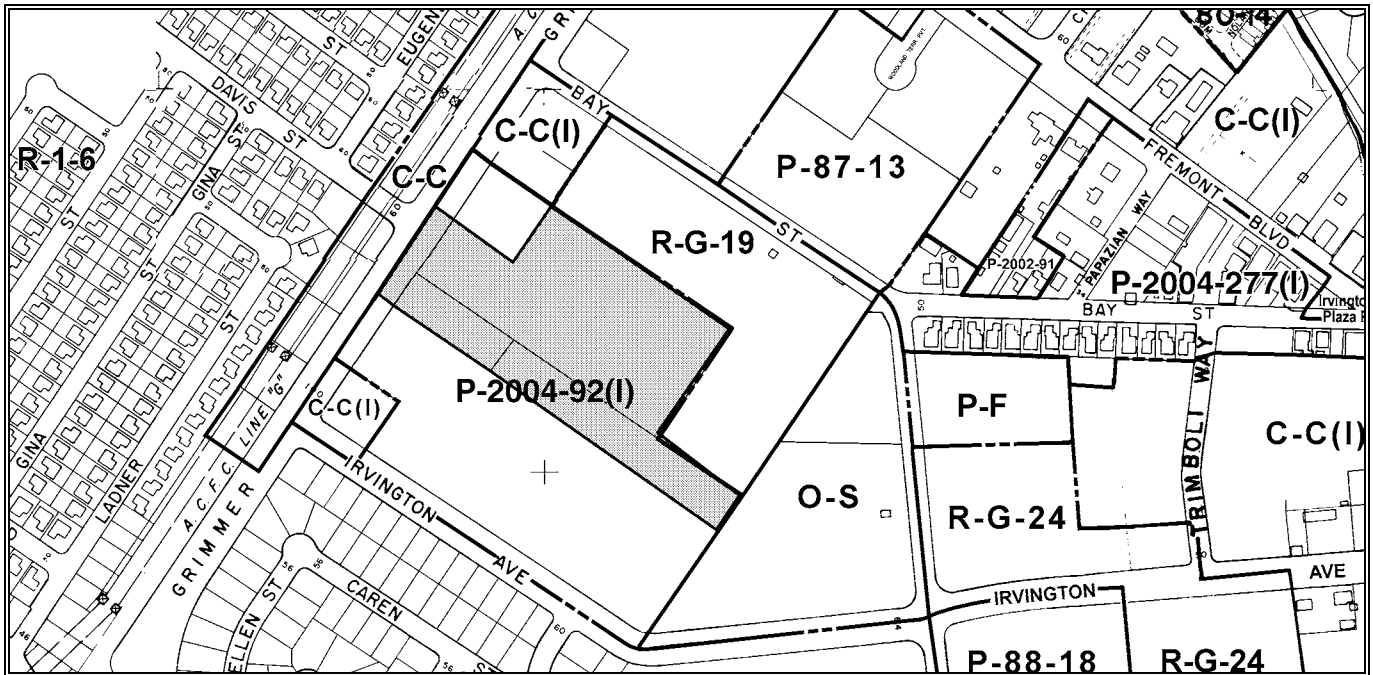
EXHIBITS: Exhibit "A" (Zoning)
Exhibit "B" (Site Plan, Preliminary Grading Plan, Elevations, Floor Plans, Landscape Plan)
Exhibit "C" (Material Color and Sample Board)
Exhibit "D" (Findings and Conditions for Site Plan and Architectural Approval and PD Major Amend.)
Exhibit "E" (Findings and Conditions for Preliminary Grading Plan)

Recommended Actions:

1. Hold public hearing.
2. Recommend that the City Council find the previous initial study conducted for the General Plan Amendment and Rezoning has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources and find that there is no evidence the project would have any potential for adverse effect on wildlife resources.

3. Recommend that the City Council find that the previous Negative Declaration adopted for the General Plan Amendment and Rezoning considered all impacts related to the proposed project, and that no new impacts will result from this development.
4. Find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Fundamental Goals, Housing and Land Use Chapters as enumerated within the staff report.
5. Find PLN2004-00308, as per Exhibit "A" (site plan, preliminary grading plan, elevations, floor plans and landscape plan) either fulfills the applicable requirements set forth in the Fremont Municipal Code, or the project as proposed justifies the deviations set forth in the staff report.
6. Recommend to the City Council the rezoning as shown on Exhibit "B" (Zoning Exhibit) and Exhibit "A" Sheets T-1 through JT-2 (site plan, preliminary grading plan, elevations, floor plans, landscape plan and joint trench plans) and Exhibit "C" (material color and sample board) for PLN2004-00308 be approved, based upon the findings and subject to the conditions of approval set forth in Exhibit "D".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

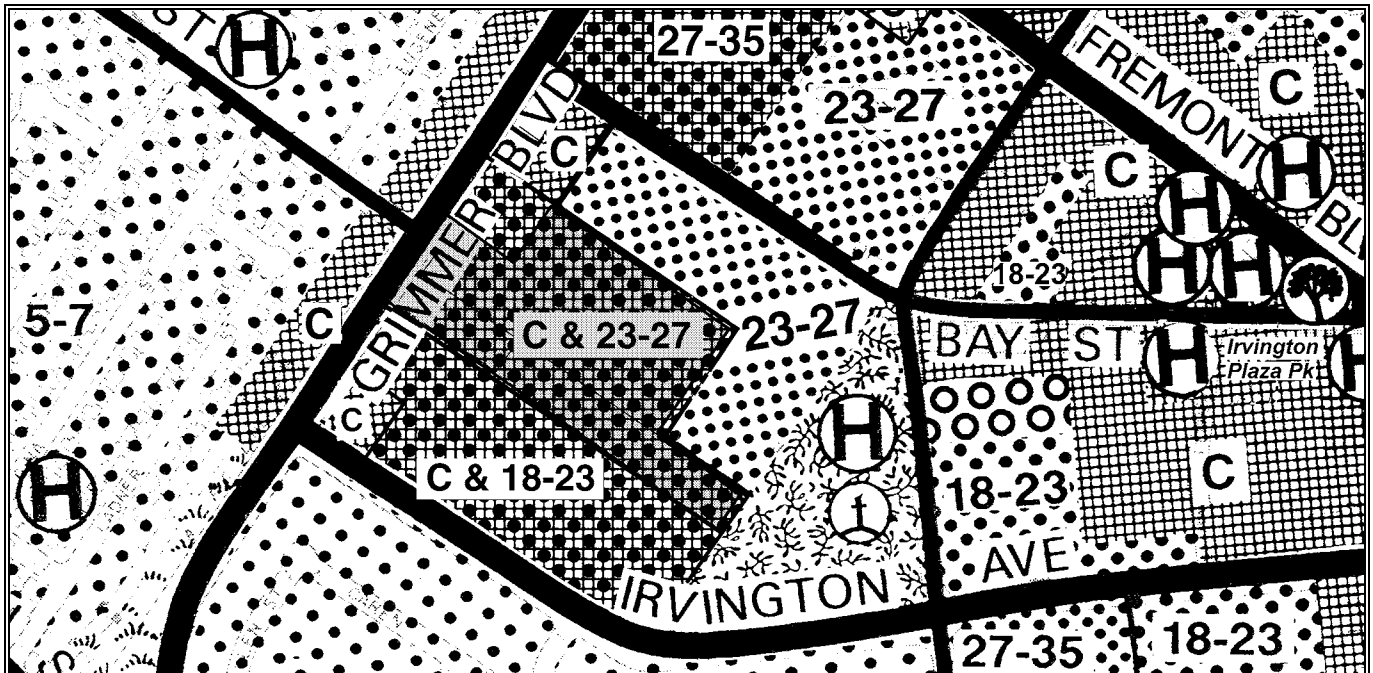


Exhibit "B"
Findings and Conditions of Approval
Irvington Village
Site Plan and Architectural Approval and Planned District Major Amendment
PLN2004-00308

Findings

The findings below are made on the basis of information contained in the staff report to the Planning Commission and testimony at the hearing on October 28, 2004, incorporated herein:

1. Recommend that the City Council find the previous initial study conducted for the General Plan Amendment and Rezoning has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources and find that there is no evidence the project would have any potential for adverse effect on wildlife resources.
2. Recommend that the City Council find that the previous Negative Declaration adopted for the General Plan Amendment and Rezoning considered all impacts related to the proposed project, and that no new impacts will result from this development.
3. Find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Fundamental Goals, Housing and Land Use Chapters as enumerated within the staff report.
4. Find that the proposed project, located in Planned District P-2004-308(I), is in substantial conformance with the standard and policies of the R-3 zoning district, and that based on the Site Plan and Architectural Approval process conducted, the exceptions granted to the general standards of the district are warranted for the reasons mentioned in the staff report herein.
5. Find that the proposed project offers a sufficient array of off-street parking opportunities and any deviations in the technically required parking requirements are warranted based on the survey information submitted by the applicant and the conditions of approval and other reasons mentioned in the staff report herein.
6. Find that the Planned District Major Amendment to allocate density at 18 dwelling units per acre for a 6.56 acre site is consistent with the General Plan of the City of Fremont. The applicant's proposal to reallocate density on the site occurs on the same Planning Commission agenda item as another development to reallocate the remainder of the site at 49 dwelling units per acre. The two separate applications, with a total of 215 units on 8.6 acres, provides an overall density of 25 dwellings per acre, which satisfies the General Plan requirement to meet the mid-point of the density range of 23-27 dwellings per acre.
7. Find that the Planned District Major Amendment to deviate from the standard City ordinance requirement for a width of 32 feet for a Private Vehicle Access Way (PVAW) is warranted by the special design and planned district amenities incorporated into the Site Plan. The applicant has provided a Private Vehicle Access Way (PVAW) width of 30 feet within the project site. This deviation can be supported as the applicant has provided common open space in excess of the R-3 code requirements, provided special pavement features throughout the development, provided for adequate fire apparatus and rescue operations, proposed landscape plans that maximize the areas available for landscaping, provided a pedestrian plan throughout the development which allows pedestrians to traverse the development and provided a diversity of architectural features, with blending and contrasting elements, for the condominium and townhouse developments.

Conditions

General Conditions (Must be satisfied on ongoing basis)

- A-1 Approval of PLN 2004-00308 for the development of 115 townhome and condominium units shall conform to Exhibit "B" (Site Plan, Preliminary Grading Plan, Elevations, Floor Plans, Landscape Plan and Joint Trench Plan), except as modified herein.
- A-2 The project, as presented, meets the City's inclusionary zoning requirements as the applicant intends to meet the requirements of the Inclusionary Housing Ordinance through the funding of construction of seventeen (17) off-site multi-family rental units. Because the 17 off-site rental units that Regis Homes proposes to fund for construction by another developer are for very-low and low-income families, this provides a greater level of affordability than on-site for-sale units for moderate income families. The Office of Housing and Redevelopment is satisfied that this off-site construction provides a greater public benefit. However, the agreement with Regis Homes regarding these inclusionary units provides that if the off-site units are not adequately funded for development within a set time frame, Regis Homes shall make 17 of its townhomes and/or condominiums available as below-market-rate inclusionary units. The monitoring of compliance with this requirement shall be administered by the City's Office of Housing and Redevelopment.
- A-3 All yard areas shall be landscaped, as indicated on the landscape plans, and all landscaped areas shall be kept maintained.
- A-4 The proposed fencing and walls, shall be maintained and kept in good condition. All yard areas shall be landscaped, and all landscaped areas shall be kept maintained.
- A-5 The use of balconies shall remain clear of the storage of materials. Enclosed storage space has been planned for each unit. The CC&R's shall include a condition which requires that balconies shall remain clear of the storage of materials and the property management shall enforce this condition

Prior to issuance of building permit/During Construction

Planning

- B-1 Plans shall be submitted to the Development Organization for review and approval to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code. The plans shall be in conformance with all local, state and federal fire and building regulations.
- B-2 Minor modifications to the approved building designs, elevations and colors may be made, subject to review and approval of the Assistant City Manager or his/her designee if such modifications are in keeping with the architectural style of the original approval. However, the Assistant City Manager shall retain the authority to determine the level of review required, including a Planning Commission review.
- B-3 The street lighting illumination level for the private vehicle access ways shall meet public roadway standards. The proposed lighting of the main aisle shall be located to reduce the potential for glare or light spillage onto adjacent properties.
- B-4 Lighting associated with the project area shall be subject to staff review and approval during the Development Organization review process, and shall be of a pedestrian scale, and residential and decorative nature.
- B-5 The applicant shall work with staff to refine the details of fencing, railing on patios and other architectural details during the Development Organization review process. This includes fencing and walls throughout the development, not just on the buildings.
- B-7 Prior to the removal of any existing structures, the applicant shall obtain a demolition permit from the City.

- B-8 The density reallocation of this site to a density of 18 dwellings per acre is in effect with the approval of the Planned District Major Amendment. Any other development of the site, other than the development approved as part of P-2004-308, shall meet a minimum density of 18 dwellings per acre.
- B-9 Planning Staff shall document the change in parking availability for the remainder Tri-City Sporting Goods site, by annotating the P-2004-92(I) file (in the Planning file and in the Planned District binder) to document the changed parking allocation at the site prior to issuance of the Building Permits. This will allow Planning staff to review all new use proposals of the site for parking conformance. Any change of use will be required to meet the City parking standards, and associated improvements, for the proposed change of use.
- B-10 The project shall be subject to all Citywide development impact fees. These fees may include, but are not limited to, fees for fire protection, park dedication, park facilities, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance.
- B-11 All provisions of the Mitigated Negative Declaration are incorporated into these conditions of approval. These provisions include and must be complied with during the pre-construction and construction phases of the project:

Mitigation #1: Future construction ... shall comply with dust suppression measures. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage. In areas where construction is delayed for an extended period of time, the ground shall be re-vegetated to minimize the generation of dust. A contact person shall be designated to oversee the implementation of dust control. In terms of demolition activities, applicants and or owners shall be required to receive the appropriate approvals from all regulatory agencies, including a "J" number from the Bay Area Air Quality Management District (BAAQMD).

Mitigation #2: Future residential development that could be facilitated as a result of this project shall be reviewed for consistency with regional, state and Federal air quality standards. If any such standards are identified as being exceeded, appropriate steps shall be included within such project to ensure consistency. These measures may include but are not limited to providing convenient public transit stops near the sites, providing bicycle facilities, providing car pool information to residents and similar actions.

Mitigation #3: Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5.(e) and (f) will be followed to reduce impacts to a non-significant level.

Mitigation #4: Prior to any future residential uses ..., a Phase I Environmental Site Assessment shall be performed by a licensed professional to identify historic sources of soil or groundwater contamination. If recommended by the Phase I analysis, a Phase II analysis shall be performed and all recommendations of the Phase II analysis shall be implemented. (completed)

Mitigation #5: Prior to any demolition, renovation or removal of structures ...:

- a) An asbestos survey of existing structures shall be performed consistent with National Emissions Standards for Hazardous Air Pollution guidelines. If warranted, a remediation plan to remove asbestos shall be prepared and implemented. Said plan shall be consistent with applicable Fremont Fire Department standards, Bay Area Air Quality Management District requirements and Cal-OSHA standards. Necessary permits shall be obtained from all applicable regulatory agencies
- b) A lead based paint survey shall be conducted. If lead-based paint is encountered, the requirements as outlined in Cal OSHA Lead in Construction Standard, Title 8, CCR Section 1532.1 (or succeeding regulation) shall be followed.

Mitigation #6: An acoustic analysis shall be prepared for all future development projects that include a residential component to determine whether any part of the residential area lies inside a 60 dba exterior noise exposure contour. If so, the acoustic report shall identify specific measures to reduce outdoor use areas to the City of Fremont General Plan noise standard, including but not limited to placement of noise barriers and using buildings to buffer noise. The analysis shall also ensure that the City and State interior noise level for future residential structures do not exceed 45 dba. Recommendations made in acoustic analyses shall be incorporated into individual project designs.

Landscaping

- C-1 Accent paving shall be installed in private streets at locations shown on the "Conceptual illustrative site plan L1.1." This paving shall be unit pavers of color, type and pattern subject to staff approval during Tract Improvement Plan review. Valley gutters and storm-water catch basins shall be installed outside of the accent paving area.
- C-2 Applicant shall provide vines on trellises and shrubs in planters at all garages along private streets. Vines shall be installed in planting areas of 18" minimum internal width and shrubs in planting areas of 3' minimum internal width free of all utility structures.
- C-3 All planting areas containing trees shall be free of all utility structures (including light standards). Clearances between utilities and trees shall conform to SD-34 City Standard Street Tree Clearances. In order to facilitate the planting of all trees shown on the "Landscape Site Tree Species Plan" it may be necessary to relocate some utilities.
- C-4 A landscape plan shall be submitted to the Development Organization or the with Tract Improvement Plans, or both, as directed by the City Landscape Architect, for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, (3) screening of driveways and parking areas, and (4) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
 - a) An underground irrigation plan.
 - b) Weed control specifications.
 - c) A lighting plan for the illumination of the building, pedestrian and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
 - d) Construction details of raised planters, walkways, paths, benches, walls, fences, trellises, and other architectural features as appropriate to the project.
- C-5 Tree grates shall have a minimum width of 5' except in the semi private courtyard spaces where tree grates shall be 4'X 6'.
- C-6 Branches from mature trees may not overhang buildings and roofs. Adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways:
 - a) Small trees (to 15 feet tall) no closer than 6 feet from building or 2 feet from paving, curbs, or walls with a minimum planting area 5 feet wide.
 - b) Medium trees (to 30 feet tall) no closer than 10 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide.
 - c) Large trees (above 30 feet tall) no closer than 15 feet from building ore 3 feet from paving, curbs, or walls with a minimum planting area of 48' feet and a minimum width of 6 feet.

- C-7 The applicant shall provide 4 *Platanus acerifolia* Street trees of 24" Box size along Grimmer Boulevard and provide 24" Box size Street trees of species shown on the "Landscape Site Tree Species Plan" on all private streets to be planted in conformance with City Standard Tree Detail SD-34.
- C-8 The play area shall be enlarged to sufficient size to allow for the proposed "Pipeline 9602 equipment" to be installed in compliance with Consumer Product Safety Commission (CPSC) guidelines for fall zones.
- C-9 All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. A copy of the LDRP are available at the Engineering.

Environmental Services

- D-1 Truck clearance/turning radius: The applicant shall continue to work with Environmental Services staff and BFI to ensure trucks have sufficient radius to service the site.
- D-2 Construction and demolitions (C & D) debris management: The Demolition and construction applications must be submitted to the City of Fremont by the applicant prior to issuance of building permits. The City of Fremont Project Waste Management Plan must be completed by the applicant and returned to the Environmental Services Division before any demolition or construction takes place. Following completion of the project, the applicant must document actual salvage and diversion by completing and returning the Post-Project Waste Disposal & Diversion Report to Environmental Services. C & D material may be recycled through any recycling company licensed to do business in Fremont.
- D-3 The applicant will be provided the Multifamily Green Building Guide which outlines some design considerations in terms of water and energy conservation, reduced toxicity of building materials, and other resource efficiencies. The project architects should contact the Alameda County Waste Management Authority at (510) 614-1699 for more information and assistance with green building design.

Engineering

- E-1 A tentative tract map application and private street application shall be submitted for Planning Commission review and approval, and may be subject to modifications at the time of review. The Planned District is for the development of 62 condominium units and 53 townhouse units. The tentative tract map will clearly state that the subdivision includes lots for condominium purposes.
- E-2 Above ground architectural and building features that project over proposed property lines, shall be permitted on townhouse units by easement recorded on the final map. Such features include, but are not limited to, eaves, bay windows, balconies, porches, landings, and stairways. The details of these easements, including dimensions and descriptions, shall be included on the tentative tract map. Foundations for all townhouse units must be contained within the individual lot.
- E-3 Private vehicle access ways shall provide a minimum pavement width of twenty-four feet. Garage doors shall be setback a minimum of three feet from the twenty-four foot clear width, such that on double-loaded private vehicle access ways, the minimum dimension between garage doors shall be thirty feet.
- E-4 The PVAW, as noted in Condition 3, shall provide a minimum pavement width of twenty-four feet. This condition is clarified with the following statement: The condominiums between buildings 54 and 55, between buildings 56 and 57, between building 58 and row homes, between building 59 and row homes, and along buildings 60 and 62, may be allowed to encroach by one foot on each side into this area with a third floor eave overhang. This eave is 30 feet above ground level and will not impede Fire apparatus and rescue operations. This exception will provide for a 22 foot width at 30 feet above ground level.

- E-5 The developer shall install complete street improvements for the public street frontage of the project site: Grimmer Boulevard. Grimmer Boulevard is currently improved as a commercial arterial. The project shall replace the existing sidewalk and street trees with new sidewalk, street trees, and landscape strip, in accordance City standard details for residential street frontage. Improvements shall include, but are not limited to, installation of sidewalk, landscaping, street trees, irrigation, and modification of existing utilities as needed.
- E-6 A new modified City standard type "E" driveway shall be installed at the Grimmer Boulevard and Davis Street intersection to provide vehicular access to the project site.
- E-7 Street or driveway improvements at the Grimmer Boulevard and Davis Street intersection may require the relocation of the existing traffic signal infrastructure and/or installation of new traffic signal infrastructure. Relocated or new signal improvements shall conform with current City standards for traffic signal infrastructure. Improvements may include, but are not limited to, new pavement striping, new signs, installation of new traffic signal loop detectors, relocation of existing or installation of new traffic signal pole(s), upgrade of pedestrian push buttons, upgrade of existing pedestrian and traffic signal lamps to light emitting diodes (LEDs), traffic signal controller upgrade, and installation of emergency vehicle preemption equipment. Required improvements shall be included in the subdivision improvement plans, subject to review and approval of the City Engineer prior to final map approval.
- E-8 The on-site intersection of street "A" and street "F" shall be a controlled three-way stop, with appropriate stop signs and pavement marking. A signing and striping plan shall be provided as part of the subdivision improvement plans, subject to review and approval of the City Engineer prior to final map approval.
- E-9 A minimum six-foot wide public service easement shall be dedicated along the Grimmer Boulevard frontage of the project site and shall be shown on the required tentative tract map application.
- E-10 The developer shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES permit requirements issued by the State's Water Quality Control Board.
- E-11 The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.
- E-12 All public and private storm drain inlets are to be stenciled "No Dumping - Drains to Bay" using thermoplastic stencils purchased from the City of Fremont Maintenance Division. Alternative inlet stencils or marking may be permitted, subject to City Engineer approval during final map and subdivision improvement plan checking.
- E-13 All on-site storm drains are to be cleaned prior to building occupancy and also be cleaned each year immediately before the beginning of the rainy season (October 15). The City Engineer may require additional cleaning.
- E-14 All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.
- E-15 The developer and project civil engineer shall work with staff to incorporate, into the design, additional storm water best management practices (BMPs) to treat storm water runoff before it is discharged into the public storm drain system. Examples of potential storm water BMPs include bio-swales, micro-detention ponds, and permeable pavement. Details of the storm water BMPs shall be included with the preliminary grading plan application.
- E-16 To accommodate the future potential development of the adjacent Tri-City Sporting Goods site for residential or mixed-use purposes, an irrevocable offer for an access easement is required, as a condition of this Planned District amendment. This irrevocable offer shall provide for access, connections to utilities, services, etc., over a

portion of the site and the private vehicle access ways. The irrevocable easement area will extend along the southwestern boundary of the site (street "E") and along street "A" and "F", to provide for connection to the Grimmer Boulevard and Davis Street signalized intersection. Access through certain landscaped areas shall be made available as part of this irrevocable easement. This irrevocable offer of access will only be exercised if the Tri-City Sporting Goods property is developed for residential or mixed-use purposes. The layout of the required access easement shall be submitted as part of the tentative map application.

- E-17 The applicant shall remove existing parking lot striping, repair asphalt, and provide fire or EVAE pavement markings and signage on the east side of the Tri-City Sporting Goods building subject to review and approval of staff during Development Organization review.

Fire

- F-1 The applicant shall meet all requirements in the 2001 California fire code and all local amendments to that code in Ordinance #2485.

EXHIBIT "E"
Irvington Village
Preliminary Grading Plan (PLN2004-00308)

FINDINGS:

No report of approval may be made unless the reviewing agency makes the following findings:

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance.
2. The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is partially within a special studies zone for liquefaction. There are no fault zones or evidence of slides on the site which might be aggravated by the grading of the development. A seismic hazard study will be completed and submitted to the City for review and approval with the tentative map.
3. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
4. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of the tentative map. Supplemental data and substantiation of conclusions may be required by the public works director upon city review of the reports. The proposed development is within a special studies zone for liquefaction maps issued by the U.S. Geological Survey and the California Division of Mines and Geology. A seismic hazard study will be completed and submitted to the City for review and approval with the tentative map.
5. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont.

CONDITIONS:

1. The project shall conform with Exhibit "A" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Planned District PLN2004-00308.
2. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
3. Approval of this Preliminary Grading Plan shall terminate 24 months from the date of approval by the Planning Commission, or approval shall run concurrent with the approval and subsequent extensions of a tentative map on the project site.
4. A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
5. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer or Alameda County Flood Control and Water Conservation District. An erosion and sediment control plan shall be included as part of the grading plans.
6. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.

7. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
8. Prior to issuance of a grading permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
9. The applicant shall submit a detailed soils report, including recommendations regarding pavement structural sections, prepared by a qualified soils engineer registered by the State of California. The soils report shall include specific recommendations for on site pavement areas that will experience repeated exposure to heavy vehicle loads.
10. Grading operations shall be in accordance with recommendations contained in the required soils report and shall be supervised by an engineer registered in the State of California to do such work.
11. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.